

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL REVISION APPLICATION NO.463 OF 2007

Rajan Purushottam Shaha : Applicant
(Orig.Defendant)

V/s.

Meghajibhai Kherajbhai Shaha : Respondent
(Orig.Plaintiff)

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Mr.S.B.Shetye for the applicant.

Mr.P.S.Dani with Mr.Sandesh Deshpande i/b. Harish Mehta &
Co., for the respondent.

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CORAM : S.A.BOBDE, J.

DATE : SEPTEMBER 13, 2007.

P.C.

1. This Revision Application is directed against the judgement of the appellate Court holding that the applicant is presently in possession of an area and the respondent-landlord has offered him possession of the same area. The learned Appellate Court has accepted the Commissioner's report which states that the applicant is in possession of 408.4 sq. ft. on the ground floor, 268 sq. ft. on the 1st floor and 252.75 sq. ft. on the 2nd floor, totalling 929.15 sq. ft. The appellate Court has

further found that in the new building, the respondent-landlord has offered 410 sq. ft. on the ground floor, 302 sq. ft. on the 2nd floor and 223 sq. ft. on the 3rd floor, totalling 935 sq. ft. The Courts have come to the conclusion that this is sufficient compliance with section 16(1)(i) of the Maharashtra Rent Control Act, 1999. There is no merit in stating that the Court could not have relied on the report of the Commissioner. The learned counsel for the respondent submitted that the report at no point of time was challenged. In fact, the report is accepted as exh.28. The trial Court failed to consider the report, but the appellate Court took the same into account since it is a valid piece of evidence.

2. Mr.Shethe on behalf of the applicant submitted that the respondent-landlord has admitted that the applicant is in possession of the premises as stated in the sale deed. I, however, find that this admission has been considered by the appellate Court in para.20 of the judgement and that the appellate Court has come to the conclusion that the respondent-landlord stated that the reference to the sale deed is incorrect and further stated that no such premises of the area referred to are in possession of the applicant. There is no material irregularity or error of jurisdiction in the order of the appellate Court. It may

be noted that the Courts below have given concurrent findings in favour of the respondents in respect of the bona fide need and the need to demolish the premises in question for re-construction.

3. The Civil Revision Application is, therefore, dismissed.

S.A. BOBDE, J.